

1 testimony is fact. And if it happens to coincide with
2 what's in Bureau Exhibit 2 we'll go with Mr. Schoenbohm's
3 testimony. But Mr. Reichlyn's not here to testify and
4 support this now. So Exhibit 2 is received under the same
5 caveats as Exhibit 1 was received.

6 (The document referred to,
7 previously marked for
8 identification as Enforcement
9 Bureau Exhibit 2, was received
10 in evidence.)

11 Let me ask, Mr. Shook, was exhibit, Enforcement
12 Bureau Exhibit 3 originally -- Okay, Enforcement Bureau
13 Exhibit No. 2 is from the official, Commission's official
14 records?

15 MR. SHOOK: Yes, sir.

16 JUDGE STEINBERG: And was Enforcement Exhibit 3
17 when it came in appended to Enforcement Bureau Exhibit 2?

18 MR. SHOOK: That was how we received it.

19 JUDGE STEINBERG: Okay.

20 MR. SHOOK: Now, I will say this, that Enforcement
21 Bureau Exhibit 3 is only a small portion of --

22 JUDGE STEINBERG: Okay.

23 MR. SHOOK: -- a much larger set of logs that
24 covered the period of time our understanding that Mr.
25 Reichlyn participated in the contest.

1 JUDGE STEINBERG: Okay. I didn't understand
2 everything you just said. So that, Mr. Schoenbohm, do you
3 have any objection to receipt of Exhibit 3?

4 THE WITNESS: No.

5 JUDGE STEINBERG: Okay, Exhibit 3 will be received
6 with the same caveats.

7 (The document referred to,
8 previously marked for
9 identification as Enforcement
10 Bureau Exhibit 3, was received
11 in evidence.)

12 MR. SHOOK: Your Honor, before we go on, if I may
13 there was one small area that I neglected to ask Mr.
14 Schoenbohm about, and that is with respect to the second
15 portion, that half hour period on Sunday.

16 JUDGE STEINBERG: Yes. Let me also say that you
17 didn't know what my ruling was on Exhibits 1 and 2. And if
18 you want to ask additional questions which might enlighten
19 the record concerning some of the facts that are cited in
20 Exhibits 1 or 2 I will give you leeway to do that. If you
21 follow.

22 MR. SHOOK: If we could do that very quickly after
23 lunch, if we're going to do it at all.

24 JUDGE STEINBERG: Okay.

25 MR. SHOOK: That would give us a chance to see --

1 THE WITNESS: Your Honor.

2 MR. SHOOK: -- whether or not there is any need
3 for that.

4 THE WITNESS: I have only one witness, a live
5 witness, and he's been waiting for a long time. And I know
6 they need to get back this afternoon. They wanted to --

7 JUDGE STEINBERG: Well, we'll finish today.

8 THE WITNESS: If I could call him and just get
9 him, he's very short, it will take only a few minutes.

10 JUDGE STEINBERG: Well, what we will do is we'll
11 finish with you. And then we will take him.

12 THE WITNESS: Okay, that would be great.

13 JUDGE STEINBERG: Because I don't want to --

14 MR. SHOOK: That's fine.

15 JUDGE STEINBERG: -- I don't want to break things
16 up.

17 MR. SHOOK: That's fine.

18 JUDGE STEINBERG: At least not before lunch.

19 MR. SHOOK: , right. No.

20 BY MR. SHOOK:

21 Q The only thing that I had neglected to ask you,
22 Mr. Schoenbohm, was when you were behind the mike on Sunday,
23 October 28, where was Mr. Reichlyn?

24 A He was on the premises. As I testified before,
25 during the all the time that I operated he never left the

1 premises.

2 Q So in other words he was in your house during the
3 entire half hour that you were behind the microphone?

4 A He was in the house. But if you understand, the
5 ham shack windows go into a patio and he might have walked
6 into the patio. I don't recall if I saw him there or not.
7 But he did not leave the premises. And I think that was the
8 -- based on what Mr. Hollingsworth's question was, did you
9 ever leave the premises? Were you the control operator at
10 all times? And to the best of my knowledge and recollection
11 to a moral certainty he never left the premises.

12 Q So your understanding would be that Mr. Reichlyn
13 was always in a position to control you, is that your
14 assertion?

15 A I can't, I can't testify for Mr. Reichlyn.

16 Q No, I'm asking for your understanding.

17 A My understanding there is that he was always in a
18 position to exercise the necessary controls to comply with
19 the rules and regulations that exist.

20 Q So in other words during that half hour period he
21 was awake?

22 A I never saw him sleeping.

23 MR. SHOOK: All right, that was the only area that
24 I neglected to ask before.

25 JUDGE STEINBERG: Let me ask you a question on the

1 premises, your definition when you use the term "premises."
2 Let's say you have a house in the middle of a 10-acre plot,
3 you know, you own 10 acres of property and the house is in
4 the middle, and somebody is at the edge of your property
5 line, you know, however many acres away, would that be the
6 premises?

7 THE WITNESS: No. I'm talking about the premises
8 surrounding the ham shack and, right there on the western
9 end of the house. I have a very small yard, it's only, it's
10 less than an acre. And it's fenced, all fenced-in. And he
11 never left that area. As the media refers to it as a
12 compound now. It's a compound.

13 This area he was, as I said before, he was always
14 within auditory earshot of the operating facility. There
15 was no time that he could not hear what I was doing.

16 I don't know that he always had eyeball-to-eyeball
17 visual contact of the computer screen that I was in front of
18 because, as I said, he went to the bathroom and he also sat
19 down and ate. But he never left the premises and he was
20 always in a position to control the time, periods of time
21 that I was operating.

22 JUDGE STEINBERG: Okay.

23 MR. SHOOK: Your Honor, I was going to ask
24 official notice.

25 JUDGE STEINBERG: Why don't we do that --

1 MR. SHOOK: At the conclusion?

2 JUDGE STEINBERG: Yes, at the conclusion.

3 MR. SHOOK: Fine.

4 JUDGE STEINBERG: And we will save a little bit of
5 time.

6 MR. SHOOK: Okay.

7 JUDGE STEINBERG: Okay, let's break for lunch.

8 THE WITNESS: Can I call my witness first so they
9 can --

10 JUDGE STEINBERG: Well, who is the witness?

11 THE WITNESS: It's Frank Todd. All he has to do
12 is --

13 JUDGE STEINBERG: Okay, let me -- Is that okay
14 with you, Mr. Shook?

15 MR. SHOOK: That's fine.

16 JUDGE STEINBERG: I have to take a short break.

17 THE WITNESS: Okay.

18 JUDGE STEINBERG: So let's break for about five,
19 ten minutes.

20 (Witness stands down.)

21 (Brief recess, 11:55 a.m. to 12:00 noon.)

22 JUDGE STEINBERG: Back on the record.

23 Whereupon,

24 FRANK A. TODD IV

25 having been first duly sworn, was called as a witness

1 herein, and was examined and testified as follows:

2 JUDGE STEINBERG: Okay, please be seated and then
3 state your name and address for the record?

4 THE WITNESS: Frank A. Todd IV, 926 Washington
5 Boulevard, Port Vue, PA 15132.

6 JUDGE STEINBERG: Okay. Mr. Schoenbohm.

7 MR. SCHOENBOHM: Yes.

8 DIRECT EXAMINATION

9 BY MR. SCHOENBOHM:

10 Q Good afternoon, Frank. I want to show you Exhibit
11 22.

12 A Okay.

13 Q Which and tell me if this is something that you
14 wrote?

15 A Yes, it looks like my letter.

16 Q And did I ask you to write it for me, didn't I? I
17 mean I asked you to write me a letter?

18 A No. Well, yes, I wrote a letter on your behalf,
19 yes.

20 Q On my behalf?

21 A Right.

22 Q Let me finish my question.

23 A Okay.

24 Q And I also asked you to come to Washington here to
25 testify that this was a letter written by you?

1 A Yes. This is my letter.

2 Q And you were in an automobile accident recently,
3 correct?

4 A Correct.

5 Q And you have pain in your shoulder?

6 A Yes.

7 Q You're under doctor's care?

8 A Uh-huh.

9 JUDGE STEINBERG: You have to say yes or no.

10 THE WITNESS: Yes.

11 BY MR. SCHOENBOHM:

12 Q But yet you drove how many miles, 300 miles?

13 A Two hundred thirty-six. Actually my uncle drove.

14 Q Your uncle drove you?

15 A Yes.

16 Q To come here to testify?

17 A Correct.

18 Q And you understand the contents of the letter?

19 You've --

20 A Yes.

21 Q -- read it carefully?

22 A Uh-huh.

23 JUDGE STEINBERG: That's a yes?

24 THE WITNESS: Yes. Uh-huh. Okay, yes.

25 BY MR. SCHOENBOHM:

1 Q And what you state there is your firm belief and
2 your conviction, your understanding?

3 A Yes.

4 MR. SCHOENBOHM: All right. I, Your Honor, I
5 would like to offer Exhibit 22 into evidence as a statement
6 of Frank Todd IV.

7 It's already been marked I believe. First I ask
8 for it to be marked as Exhibit 22.

9 JUDGE STEINBERG: Right. Well, I marked them all,
10 I identified them all in the beginning. Let me ask, just
11 that's your signature on page 2?

12 THE WITNESS: Yes. Uh-huh. Yes.

13 JUDGE STEINBERG: And is everything that you
14 stated in this letter true and correct to the best of your
15 knowledge and belief?

16 THE WITNESS: Yes, it is.

17 JUDGE STEINBERG: Any objection?

18 MS. LEAVITT: No, Your Honor.

19 JUDGE STEINBERG: Okay, Schoenbohm Exhibit 22 is
20 received.

21 (The document referred to,
22 previously marked for
23 identification as Schoenbohm
24 Exhibit 22, was received in
25 evidence.)

1 MR. SCHOENBOHM: No further questions. Available
2 for cross.

3 CROSS-EXAMINATION

4 BY MS. LEAVITT:

5 Q Mr. Todd, in this letter you state that you
6 support Mr. Schoenbohm's application. You also state, and I
7 quote, "Regardless of whatever Mr. Schoenbohm may have done,
8 he certainly had time to make the adjustments in his life
9 necessary to requalify himself as a candidate for an amateur
10 radio license."

11 A Uh-huh.

12 Q You wrote that?

13 A Yes, I did.

14 Q Okay. Are you familiar with why the Commission
15 did not grant Mr. Schoenbohm's earlier application for
16 renewal of his previous license?

17 A Yes, I am.

18 Q Can you tell me a little bit about what you know
19 about the reasons the Commission denied his renewal
20 application?

21 A Sure I can. In the last hearing it was regarding
22 I guess testimony based on lack of candor with his testimony
23 regarding I guess calls or whatever it was in the Caribbean.
24 Basically, you know, toward that line.

25 Q Are you familiar at all with the Commission's

1 decisions regarding Mr. Schoenbohm's testimony about -- his
2 testimony to the Commission at a prior hearing regarding the
3 nature of his felony conviction?

4 A Yes.

5 Q Okay. So you know that the Commission --
6 MS. LEAVITT: May I approach the witness, Your
7 Honor?

8 BY MS. LEAVITT:

9 Q I'd like to show the witness what's been marked as
10 Official Notice 1.

11 JUDGE STEINBERG: Okay, they haven't been marked
12 yet.

13 MS. LEAVITT: No, it hasn't.

14 JUDGE STEINBERG: But I guess I can do this real
15 quickly. Okay, there are two documents. One is that the
16 Enforcement Bureau exchanged. One document is called
17 Official Notice I guess Exhibit 1, and it's the decision of
18 the Commission FCC 98-139, released July 8, 1998. And it's
19 reported at 13 FCC Record 15,026. And it's a 12-page
20 exhibit and it's marked for identification as Bureau
21 Official Notice Exhibit 1.

22 (The document referred to was
23 marked for identification as
24 Bureau Official Notice Exhibit
25 1.)

1 The second document is a 4-page document and it's
2 an order of the Commission, FCC 98-267, released October 9,
3 1998. And it's reported at 13 FCC Record 23,774. And
4 that's marked for identification as Bureau Official Notice
5 Exhibit No. 2.

6 (The document referred to was
7 marked for identification as
8 Bureau Official Notice Exhibit
9 2.)

10 MS. LEAVITT: Thank you, Your Honor.

11 BY MS. LEAVITT:

12 Q Okay. Turning to Official Notice Number 1,
13 specifically paragraphs 14, 15 and 16.

14 A Okay.

15 Q Can you read those to yourself?

16 A Uh-huh.

17 (Witness reviews document.)

18 JUDGE STEINBERG: We will go off the record while
19 that is being done.

20 (Brief recess, 12:05 p.m. to 12:07 p.m.)

21 JUDGE STEINBERG: Back on the record.

22 BY MS. LEAVITT:

23 Q Okay, thank you, Mr. Todd. So you've read
24 paragraphs 14, 15 and 16 of Official Notice Exhibit 1?

25 A Yes, I did.

1 Q And can you tell me in your own language what the
2 Commission was saying in those paragraphs?

3 A Basically that I guess when the hearing was going
4 on he wasn't, you know, truthful about the calls or, you
5 know, making long distance telephone calls in the Caribbean.

6 Q Right. Specifically about his conviction
7 because --

8 A Correct.

9 Q -- are you familiar --

10 A Yes.

11 Q -- that he had been convicted?

12 A Yes.

13 Q Okay.

14 A I believe it was '92 or something. I can't recall
15 the exact date but I think it was around that period.

16 Q It was about ten years ago?

17 A Right, ten years ago.

18 Q Right.

19 A Right.

20 Q And then in subsequent testimony before the
21 Commission the Commission determined that Mr. Schoenbohm had
22 been, had misrepresented the nature of his conviction, in
23 fact trying to soften it and make it seem less than it
24 really was in an attempt to mislead the Commission into
25 believing something that really wasn't probably true?

1 A Uh-huh.

2 JUDGE STEINBERG: Is that answer yes?

3 THE WITNESS: Yeah. Yes.

4 BY MS. LEAVITT:

5 Q Does knowing this information change your opinion
6 at all as to Mr. Schoenbohm's qualifications?

7 A No. No, it does not.

8 Q Why not?

9 A Because I feel that he's, you know, been truthful
10 to me. And everyone that I talk to, you know, speaks highly
11 of him and, you know, rely upon him.

12 Q Okay. I'm also going to ask you to read
13 paragraphs 24 and 25 to yourself --

14 A Okay.

15 Q -- of that Official Notice Exhibit 1.

16 A (Witness reviews document.)

17 Q Can you tell me in your own words what the
18 Commission was saying in those paragraphs?

19 MR. SCHOENBOHM: I would like to object. I think
20 that for the witness to have to recharacterize what was
21 sustained by the Courts of obviously an error on my, mistake
22 on my part is not --

23 THE WITNESS: Because I'm not really familiar with
24 the phrasing.

25 MR. SCHOENBOHM: -- she's asking him to

1 characterize a very complex legal proceeding like an ex
2 parte solicitation. It's really not germane to his
3 testimony about my character or my rehabilitation.

4 JUDGE STEINBERG: I will overrule the objection.
5 If you want to read it again and study it a little more you
6 can.

7 THE WITNESS: Okay.

8 MS. LEAVITT: And I will even, an ex parte of the
9 Commission's rules --

10 JUDGE STEINBERG: Well, I don't want you to
11 respond.

12 MS. LEAVITT: Okay.

13 JUDGE STEINBERG: Just if you don't understand
14 something you don't understand it.

15 THE WITNESS: Right.

16 JUDGE STEINBERG: And if you read it and don't
17 understand it you say "I don't understand it."

18 THE WITNESS: Okay.

19 JUDGE STEINBERG: That's all. Nobody is asking
20 you to do something you don't want to do really or can't
21 force you to understand it.

22 THE WITNESS: (Witness reviews document.)

23 Just, or yes, that's just more than I, you know,
24 can comprehend at this time.

25 BY MS. LEAVITT:

1 Q Okay. Do you understand that even though you may
2 not understand what the ex parte violations were, do you
3 understand that the Commission was saying that Mr.
4 Schoenbohm's testimony regarding the ex parte presentations
5 was misleading and --

6 A Yes.

7 Q -- he was not forthcoming?

8 A Umm.

9 Q That answer was no?

10 JUDGE STEINBERG: Please answer yes or no.

11 THE WITNESS: Oh, umm.

12 JUDGE STEINBERG: State the question again,
13 please.

14 THE WITNESS: Yes.

15 BY MS. LEAVITT:

16 Q So even if you don't fully understand what ex
17 parte violations mean do you understand that the Commission
18 found that Mr. Schoenbohm had been less than truthful in his
19 testimony regarding the ex parte presentations?

20 A I'm going to have to say no.

21 Q Okay. Why do you say no?

22 A Just, you know, I felt that he was, you know, --

23 JUDGE STEINBERG: You basically didn't understand
24 those paragraphs, right?

25 THE WITNESS: Yeah, I really didn't. You know, I

1 didn't comprehend -- yes.

2 MS. LEAVITT: Okay.

3 JUDGE STEINBERG: I think what counsel is asking
4 is, let me see if I can explain it a little bit. What the
5 Commission said and the courts affirmed was that Mr.
6 Schoenbohm was not entirely truthful when he testified on
7 certain matters before the Commission the last time.

8 THE WITNESS: Uh-huh.

9 JUDGE STEINBERG: This was years and years ago.

10 THE WITNESS: Right.

11 JUDGE STEINBERG: And what counsel is asking you
12 is would your opinion of Mr. Schoenbohm, does your opinion
13 of Mr. Schoenbohm change if you knew that the Commission and
14 the courts or that the Commission found that he testified
15 less than truthfully before the Commission?

16 THE WITNESS: Oh. Then it would have to be no.

17 JUDGE STEINBERG: Okay, so your opinion doesn't
18 change?

19 THE WITNESS: Right. No.

20 JUDGE STEINBERG: So it doesn't. Knowing that
21 doesn't really change your opinion of Mr. Schoenbohm?

22 THE WITNESS: No, it does not.

23 BY MS. LEAVITT:

24 Q And how long have you known Mr. Schoenbohm?

25 A I would have to -- I would say around 1995.

1 Q Okay. And how do you know him?

2 A Through an organization called the Better Amateur
3 Radio Federation. Basically I went to West Virginia and I
4 hung out with a group of, you know, ham radio operators and
5 just, you know, starting talking, you know. I didn't have a
6 license back then.

7 Q Okay.

8 A So just to put that on the record, I did not have
9 a license. And just started talking. And that's how
10 basically I met him on the air.

11 Q Had you met him in person?

12 A I met him in 1999 after I graduated high school,
13 yes.

14 Q Okay. And what was the -- how did you meet him?
15 What were the circumstances of that meeting?

16 A It was a graduation present. You know, I wanted
17 to go down so he said, you know, sure, I'll go down.

18 Q So you went down to the Virgin Islands --

19 A Yes, I did.

20 Q -- to visit him?

21 A Uh-huh.

22 Q Uh-huh. And how long did you stay with him?

23 A A week.

24 Q Okay. And did you have your license at that time?

25 A No, I did not.

1 Q Okay. Were there any other contacts with Mr.
2 Schoenbohm after that visit?

3 A On e-mail and AOL instant messages.

4 MS. LEAVITT: Okay. I don't have any further
5 questions. Okay, thank you very much.

6 MR. SCHOENBOHM: I have something, Your Honor, on
7 redirect.

8 JUDGE STEINBERG: Sure.

9 REDIRECT EXAMINATION

10 BY MR. SCHOENBOHM:

11 Q Mr. Todd, possibly, is it possible -- or, no, did
12 you agree with the Commission's decision in their previous
13 hearing regarding my attempted explanation of my conviction
14 and my attempted explanation of my contacts regarding, my
15 remarks in there regarding Congressman Frasier.

16 MR. SHOOK: Objection.

17 BY MR. SCHOENBOHM:

18 Q Did you agree, did you have an agreement with that
19 or did you have a negative feeling about that?

20 JUDGE STEINBERG: Well, I don't think I'm going to
21 let you ask that question because Mr. Todd read a couple of
22 paragraphs and didn't understand what he read. So if he
23 didn't understand those two paragraphs how could he express
24 an opinion as to whether he agrees or not with the
25 Commission's decision? Plus, whether he agrees with the

1 Commission's decision or not doesn't really matter.

2 MR. SCHOENBOHM: Yeah, it doesn't matter. But I
3 thought that --

4 JUDGE STEINBERG: I mean, I mean without showing
5 Mr. Todd the Commission's, actually the Supplemental I.D.,
6 the Commission's decision and the denial of the
7 reconsideration and giving him an opportunity to read it and
8 study it and I don't think it is fair to ask him those
9 questions. That's number one.

10 Number two, I don't believe Mr. Todd knows the
11 facts of those cases enough to express an opinion as to
12 whether he agrees or not. The only thing he would know is
13 what you might have told him and what he reads.

14 But you know, but the question as to if I told Mr.
15 Todd that the Commission found that Mr. Schoenbohm did X, Y
16 and Z and does that change your opinion, I think that was
17 fair.

18 MR. SCHOENBOHM: All right.

19 JUDGE STEINBERG: And it didn't change his
20 opinion.

21 BY MR. SCHOENBOHM:

22 Q You were in my home for a little over a week?

23 A Uh-huh.

24 JUDGE STEINBERG: That's yes?

25 THE WITNESS: Yes. Yes.

1 BY MR. SCHOENBOHM:

2 Q You met my family, my boys. You went to the beach
3 with my kids.

4 A Yes.

5 Q Ate at the same table with us. Did you observe a
6 person who had the appearances of a good character or a bad
7 character?

8 A Good character.

9 Q And did you also talk to other people in the
10 community when you were in St. Croix?

11 A Yes, I did. And they all spoke very highly of
12 you.

13 Q And did you hear anybody in the community say
14 anything negative?

15 A No, I did not.

16 Q Have you talked to people in government and
17 neighbors as well?

18 A Yes, I did.

19 Q And your overall impression of me as an individual
20 is it one that you, a person that you could trust or a
21 person that you would not trust?

22 A I would trust you, yes.

23 MR. SCHOENBOHM: That's it.

24 MS. LEAVITT: We have nothing further, Your Honor.

25 JUDGE STEINBERG: Okay. Mr. Todd, you are excused

1 now. And thank you very much for coming and testifying.

2 THE WITNESS: Okay.

3 JUDGE STEINBERG: Appreciate it. And have a safe
4 journey back. And maybe when you're in Washington you can
5 see some of the sights because I understand it is nice out.

6 THE WITNESS: Yes.

7 JUDGE STEINBERG: Though none of us have been out
8 for hours.

9 MS. LEAVITT: It is warm at least.

10 MR. SCHOENBOHM: This is his first trip.

11 THE WITNESS: My first trip to Washington.

12 JUDGE STEINBERG: Why don't you enjoy yourself
13 while you're here.

14 THE WITNESS: All right, thank you.

15 JUDGE STEINBERG: Thank you very much.

16 (Witness excused.)

17 JUDGE STEINBERG: And thank you for driving him.
18 Okay, let's go off the record.

19 (Whereupon, at 12:15 p.m., the testimony was
20 recessed, to reconvene this same day at 1:17 p.m.)

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A F T E R N O O N S E S S I O N

(1:17 P.M.)

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JUDGE STEINBERG: We're back on the record now.

Why don't we take care of the Official Notice exhibits.

MR. SCHOENBOHM: Okay. Your Honor, Exhibit 1 is already accepted into evidence.

JUDGE STEINBERG: No, I'm talking about Mr. Shook's Official Notices.

MR. SCHOENBOHM: Oh, I'm sorry. Okay.

JUDGE STEINBERG: And then we will do yours.

MR. SCHOENBOHM: Sure.

JUDGE STEINBERG: The Official Notice Exhibit 1 was the Commission's decision. Is there any objection to its receipt?

MR. SCHOENBOHM: No.

JUDGE STEINBERG: Okay, Bureau Official Notice Exhibit 1 is received.

(The document referred to, previously marked for identification as Bureau Official Notice Exhibit 1, was received in evidence.)

And how about Exhibit No. 2, Official Notice Exhibit No. 2 which is the denial of reconsideration. Any objection?

1 MR. SCHOENBOHM: No, sir.

2 JUDGE STEINBERG: Then Official Notice Exhibit 2
3 is received.

4 (The document referred to,
5 previously marked for
6 identification as Bureau
7 Official Notice Exhibit 2, was
8 received in evidence.)

9 MR. SHOOK: Thank you, Your Honor.

10 MR. SCHOENBOHM: I just have one question. The
11 Supplemental Initial Decision was referred to.

12 JUDGE STEINBERG: We can just, if you need to
13 quote it it is at 13 F.C.C.R. 1853.

14 MR. SCHOENBOHM: But it was not included as part
15 of this record.

16 JUDGE STEINBERG: It doesn't matter. Any
17 Commission decision you just cite to me. No, no, anything,
18 any official decision that comes out of the Commission or
19 the Court of Appeals or the Supreme Court is something I can
20 take judicial notice of and it doesn't really need to be
21 part of the record. I suspect that these were made exhibits
22 out of an abundance of caution.

23 MR. SHOOK: Well, also because of the possibility
24 of actually having to present them to a witness and ask
25 questions about them. It just seemed much easier to do it

1 that way.

2 JUDGE STEINBERG: Okay. Now, I guess do you want
3 to move your exhibits into evidence, Mr. Schoenbohm?

4 MR. SCHOENBOHM: Yes, Your Honor.

5 JUDGE STEINBERG: Why don't we just take them one
6 at a time and --

7 MR. SCHOENBOHM: Do you want me to sit down and?

8 JUDGE STEINBERG: Yes.

9 MR. SCHOENBOHM: Okay.

10 JUDGE STEINBERG: Just sit and what I will do is I
11 will go through then and -- I mean you are going to move
12 them all in, right?

13 MR. SCHOENBOHM: Yes.

14 JUDGE STEINBERG: So you don't have to say I move
15 1, 2, 3, I will just ask Mr. Shook if he's got an objection
16 and note that objection and then if he's got one, then I can
17 hear argument, then I will rule. How about Schoenbohm
18 Exhibit 1?

19 MR. SHOOK: No objection.

20 JUDGE STEINBERG: Okay, that exhibit is received.

21 (The document previously
22 marked for identification as
23 Schoenbohm Exhibit 1, was
24 received in evidence.)

25 Schoenbohm Exhibit 2?

1 MR. SHOOK: We do object.

2 JUDGE STEINBERG: On what ground?

3 MR. SHOOK: Lack of sponsoring witness for one.

4 And then let's see, what else? And also relevance.

5 JUDGE STEINBERG: Mr. Schoenbohm?

6 MR. SCHOENBOHM: Yes. I would like to say that I
7 am the sponsoring witness of this exhibit and it's being
8 presented as the other exhibits you mentioned before, not to
9 the facts but so much as the fact that the former chief of
10 police wrote a letter in support of my rehabilitation. The
11 fact that the letter was written is -- has not so much of
12 content because you had obviously a, right to cross-examine
13 Chief Richards on that, but the fact that he wrote a letter.

14 This is not being offered as to the truth or
15 falsity or the contents, it's offered, as similar letters
16 that I have here, to demonstrate that respectable citizens
17 believe in my rehabilitation in the community.

18 JUDGE STEINBERG: Okay. The exhibit is going to
19 be rejected for one of several reasons. Number one, it is
20 not an affidavit or declaration under penalty of perjury
21 form. And number two, there is no one present here, Mr.
22 Richards isn't here to be available to be cross-examined.

23 And actually, there is a third reason which is not
24 the decisive reason but although the letter says that you
25 provided assistance to the police department and the

1 community it doesn't -- well, let me strike that. I will
2 just reject the exhibit for the two reasons that I stated.

3 (The document referred to,
4 previously marked for
5 identification as Schoenbohm
6 Exhibit 2, was rejected.)

7 And Exhibit No. 3?

8 MR. SHOOK: Objection. The same objections.

9 MR. SCHOENBOHM: I would just say that it is,
10 could be exempted under business records of the Republican
11 Party of the Virgin Islands and also as a demonstration that
12 I have been elevated to the position of chairman and shows
13 rehabilitation.

14 JUDGE STEINBERG: I am going to receive this
15 exhibit for background purposes. Mr. Schoenbohm testified
16 as to his position. And there might be some case out there
17 somewhere that concerns involvement in community affairs,
18 etc., being representative of good character in the
19 community. I am not sure about that but it might be there.
20 And also Mr. Schoenbohm has testified about this. So
21 Exhibit 3 is received.

22 (The document referred to,
23 previously marked for
24 identification as Schoenbohm
25 Exhibit 3, was received in

1 evidence.)

2 MR. SHOOK: Your Honor, I could probably shorten
3 this by just noting that with respect to a document that Mr.
4 Schoenbohm himself did not prepare and sign we are always
5 going to have an objection with respect to the lack of a
6 sponsoring witness. And the only difference --

7 JUDGE STEINBERG: Let's go through them one at a
8 time.

9 MR. SHOOK: That's fine.

10 JUDGE STEINBERG: I think it would take up just
11 about as much time. Exhibit No. 4, so you object to that?

12 MR. SHOOK: Yes, sir.

13 MR. SCHOENBOHM: I would just say again this is
14 under the business records exemption of the Department of
15 Property and Procurement, a government agency. That again
16 refers to things in question here, Hurricane Lenny and the
17 work that I did which was part of the process that shows
18 rehabilitation and community service.

19 JUDGE STEINBERG: I will accept this for
20 background purposes only. I think there was testimony about
21 the hurricane and what Mr. Schoenbohm did. So Exhibit 4 is
22 received.

23 (The document referred to,
24 previously marked for
25 identification as Schoenbohm